

**NEVADA DEPARTMENT OF  
CONSERVATION & NATURAL RESOURCES**

**STATE ENVIRONMENTAL COMMISSION**

**HEARING ARCHIVES FOR**

**REGULATORY PETITIONS**

**COMMISSION PETITION NO. 1999-01**

**LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-017-99**

**DOCUMENTS INCLUDED IN THIS FILE:**

**YES SECRETARY OF STATE FILING FORM**

**YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B**

**REGULATORY PETITIONS**

**ORIGINAL DRAFTED BY COMMISSION**

**YES ADOPTED BY COMMISSION**

**AS FILED AND CODIFIED BY LCB**

Secretary of State  
Filing Data

For Filing Administrative  
Regulations

For Emergency  
Regulations Only

Effective Date \_\_\_\_\_

Expiration Date \_\_\_\_\_

\_\_\_\_\_  
Governor's Signature

### State Environmental Commission

Classification ☐ Proposed ☐ Adopted By Agency ☒ Temporary ☐ Emergency ☐

**Brief description of action:** **Petition 1999-01 (R-017-99)** is permanent regulation amending NAC 445A.121, 445A.143, 445A.213 of the water pollution control regulations. The regulations were amended to add the term "surface" in describing standards applicable to all waters. NAC 445A.143, the Colorado River salinity standards, was amended to include the term "flow weighted annual average". NAC 445A.213, the minimum quality criteria applicable to interstate waters, was repealed. Definitions for "annual mean flow" and "flow weighted annual average" were added since the adoption of the temporary regulation. The regulations were amended to change the reference for limits in drinking water standards from the U.S. Public Health Service to those adopted by the Nevada State Board of Health.

**Authority citation other than 233B:** NRS 445A.425, and 445A.520

**Notice date:** November 10, 1998, November 17, 1998 and November 24, 1998, August 10, 1999, August 18, 1999 and August 26, 1999.

**Hearing date:** December 9, 1998 (Temporary) and September 9, 1999 (Permanent)

**Date of Adoption of Agency:** December 9, 1998 (Temporary) and September 9, 1999 (Permanent)

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED  
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066  
PERMANENT PETITION 1999-01 (LCB R-017-99)  
STATE ENVIRONMENTAL COMMISSION**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 445A. This permanent regulation deals with amendments to the water pollution control program.

**1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

**Petition 1999-01 (R-017-99)**, was noticed three (3) times: November 10th, 17th and 24th, 1998 as a temporary regulation and on August 10, 18 and 26, 1999 as a permanent regulation in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. The regulation was initially adopted on December 9, 1998 by the State Environmental Commission with permanent adoption on September 9, 1999. . The regulatory workshop was held on November 6, 1998 in Carson City and November 9, 1998 in Elko. No oral testimony was received on this regulation. No written comments were received from at the public hearing during adoption of the permanent regulation. The public was also mailed the notice of intent and agenda through the Environmental Commission's mailing list. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 extension 3117, or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

**2. The number persons who:**

<b>(a)</b>	<b>Attended each hearing;</b>	<b>30</b>
<b>(b)</b>	<b>Testified at each hearing:</b>	<b>1</b>
<b>(c)</b>	<b>Submitted to the agency written comments:</b>	<b>0</b>

**3. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. See above statement for dates and locations of workshops and notices. No oral testimony was received from businesses on this regulation. Four written comments were received from the the Nevada Mining Association, Newmont Gold Company, Barrick Goldstrike Mines and Independence Mining Company. (exhibits 3,4,5 and 6 of the temporary adoption on December 9, 1998). The comments focused the indirect adoption of Maximum Contaminant Levels and the impact on water body mixing zones. The sections of concern in the regulation was amended and deleted from the temporary regulation. No comments were received regarding the permanent adoption. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

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**4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The temporary regulation was adopted by the State Environmental Commission on December 9, 1998 with major modifications to the petition. Amendments were made when the permanent regulation was adopted on September 9, 1999.

**5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**

- (a) Both adverse and beneficial effects: and
- (b) Both immediate and long-term effects.

The permanent regulation is not anticipated to have any significant adverse short or long term economic impact on Nevada businesses. The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public.

**6. The estimated cost to the agency for enforcement of the adopted regulation.**

There is no additional cost to the agency for enforcement.

**7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The regulations do not overlap or duplicate any regulations of another state or local governmental agency.

**8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

The regulations are no more stringent than federal regulations.

**9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

There will be no additional fees, nor will there be an increase in fees associated with this regulation.

**END OF FILING STATEMENT FOR 1999-01 (R-017-99)**

# ADOPTED PERMANENT REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION

LCB File No. R017-99

Explanation: Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted. Material in *italics and underscored* reflects new language adopted Commission.

AUTHORITY: §§ 1-7, NRS 445A.425 and 445A.520.

**Section 1.** Chapter 445A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

**Sec. 2.** “Annual mean flow” means ~~[an amount]~~ a value calculated by:

1. *Determining the rate of flow of water on each day during a 365-day period at or near the [point] location at which a sample of water is taken;*
2. ~~[Adding]~~ Summing the daily amounts determined pursuant to subsection 1; and
3. *Dividing the [amount] sum determined pursuant to subsection 2 by the number of days for which the flow rate was measured [365].*

**Sec. 3.** “Flow weighted annual average” concentration means ~~[an amount]~~ a value calculated by:

1. *Multiplying the [amount of total dissolved solids] pollutant concentration present in a sample of water by the rate of flow of the water at the [point] location and time at which the sample was taken;*
2. ~~[Adding]~~ Summing the amount determined pursuant to subsection 1 for each day for which pollutant concentration samples were taken during a 365-day period;
3. *Dividing the [amount] sum determined pursuant to subsection 2 by the number of days for which pollutant concentration samples were taken [365];* and
4. *Dividing the amount determined pursuant to subsection 3 by the annual mean flow.*

**Sec. 4.** NAC 445A.070 is hereby amended to read as follows:

445A.070 As used in NAC 445A.070 to 445A.348, inclusive, *and sections 2 and 3 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 445A.071 to 445A.116, inclusive, *and sections 2 and 3 of this regulation*, have the meanings ascribed to them in those sections.

**Sec. 5.** NAC 445A.120 is hereby amended to read as follows:

445A.120 1. NAC 445A.120 to ~~[445A.213,]~~ ~~[445A.212]~~ 445A.225, inclusive, apply to all natural streams and lakes, reservoirs or impoundments on natural streams and other specified waterways, unless excepted on the basis of existing irreparable conditions which preclude such use. Man-made waterways, unless otherwise specified, must be protected for public health and the use for which the waterways were developed.

2. The quality of any waters receiving waste discharges must be such that no impairment of the beneficial usage of water occurs as the result of the discharge. Natural water conditions may, on occasion, be outside the limits established by standards. The standards adopted in NAC 445A.120 to ~~[445A.213,]~~ ~~[445A.212]~~ 445A.225, inclusive, relate to the condition of waters as affected by discharges relating to the activities of man.

**Sec. 6.** NAC 445A.121 is hereby amended to read as follows:

445A.121 The following standards are applicable to all **surface** waters of the state:

1. Waters must be free from substances attributable to domestic or industrial waste or other controllable sources that will settle to form sludge or bottom deposits in amounts sufficient to be unsightly, putrescent or odorous or in amounts sufficient to interfere with any beneficial use of the water.

2. Waters must be free from floating debris, oil, grease, scum and other floating materials attributable to domestic or industrial waste or other controllable sources in amounts sufficient to be unsightly or in amounts sufficient to interfere with any beneficial use of the water.

3. Waters must be free from materials attributable to domestic or industrial waste or other controllable sources in amounts sufficient to produce taste or odor in the water or detectable off-flavor in the flesh of fish or in amounts sufficient to change the existing color, turbidity or other conditions in the receiving stream to such a degree as to create a public nuisance or in amounts sufficient to interfere with any beneficial use of the water.

4. Waters must be free from high temperature, biocides, organisms pathogenic to human beings, toxic, corrosive or other deleterious substances attributable to domestic or industrial waste or other controllable sources at levels or combinations sufficient to be toxic to human, animal, plant or aquatic life or in amounts sufficient to interfere with any beneficial use of the water. Compliance with the provisions of this subsection may be determined in accordance with methods of testing prescribed by the department. If used as an indicator, survival of test organisms must not be significantly less in test water than in control water.

5. If toxic materials are known or suspected by the department to be present in a water, testing for toxicity may be required to determine compliance with the provisions of this section and effluent limitations. The department may specify the method of testing to be used. The failure to determine the presence of toxic materials by testing does not preclude a determination by the department, on the basis of other criteria or methods, that excessive levels of toxic materials are present.

6. Radioactive materials attributable to municipal, industrial or other controllable sources must be the minimum concentrations ~~[which]~~ **that** are physically and economically feasible to achieve. In no case must materials exceed the limits established in the 1962 Public Health

Service Drinking Water Standards (or later amendments) or 1/30th of the MPC values given for continuous occupational exposure in the "National Bureau of Standards Handbook No. 69." The concentrations in water must not result in accumulation of radioactivity in plants or animals that result in a hazard to humans or harm to aquatic life.

7. Wastes from municipal, industrial or other controllable sources containing arsenic, barium, boron, cadmium, chromium, cyanide, fluoride, lead, selenium, silver, copper and zinc that are reasonably amenable to treatment or control must not be discharged untreated or uncontrolled into the waters of Nevada. In addition, the limits for concentrations of the chemical constituents must provide water quality consistent with the mandatory requirements of the 1962 Public Health Service Drinking Water Standards.

8. The specified standards are not considered violated when the natural conditions of the receiving water are outside the established limits, including periods of extreme high or low flow. Where effluents are discharged to such waters, the discharges are not considered a contributor to substandard conditions provided maximum treatment in compliance with permit requirements is maintained.

**Sec 7.** NAC 445A.143 is hereby amended to read as follows:

445A.143 1. The State of Nevada will cooperate with the other Colorado River Basin states and the Federal Government to support and carry out the conclusions and recommendations adopted April 27, 1972, by the reconvened 7th session of the conference in the matter of pollution of interstate waters of the Colorado River and its tributaries.

2. Pursuant to subsection 1, the ~~values~~ **flow weighted annual average[s] concentrations** for total dissolved solids in mg/l at the three lower main stem stations of the Colorado River are as follows:

Below Hoover Dam	723
Below Parker Dam	747
Imperial Dam	879

**Sec. 8.** NAC 445A.213 is hereby repealed.

## **TEXT OF REPEALED SECTION**

### **445A.213 Minimum quality criteria applicable to interstate waters.**

The minimum quality criteria applicable to interstate waters at agreed state line sampling points are as follows:

1. Waters must be free from substances attributable to domestic or industrial waste or other controllable sources that will settle to form sludge or bottom deposits in amounts sufficient to be unsightly, putrescent or odorous or in amounts sufficient to interfere with any beneficial use of the water.

2. Waters must be free from floating debris, oil, grease, scum and other floating materials attributable to domestic or industrial waste or other controllable sources in amounts sufficient to be unsightly or in amounts sufficient to interfere with any beneficial use of the water.

3. Waters must be free from materials attributable to domestic or industrial waste or other controllable sources in amounts sufficient to produce taste or odor in the water or detectable off-flavor in the flesh of fish or in amounts sufficient to change the existing color, turbidity or other conditions in the receiving stream to such degree as to create a public nuisance or in amounts sufficient to interfere with any beneficial use of the water.

4. Waters must be free from high temperature, biocides, organisms pathogenic to human beings, toxic, corrosive or other deleterious substances attributable to domestic or industrial waste or other controllable sources at levels or combinations sufficient to be toxic to human, animal, plant or aquatic life or in amounts sufficient to interfere with any beneficial use of the water.

5. Radioactive materials attributable to municipal, industrial or other controllable sources must be minimum concentrations which are physically and economically feasible to achieve. In no case must materials exceed the 1/10 of the 168-hour values for other radioactive substances specified in National Bureau of Standards Handbook 69.

6. Wastes from municipal or industrial or other controllable sources containing arsenic, barium, boron, cadmium, chromium, cyanide, fluoride, lead, selenium, silver, copper and zinc that are reasonably amendable to treatment or control must not be discharged untreated or uncontrolled into the Colorado River System. At agreed points of sampling above Imperial Dam in the Colorado River System the limits for concentrations of these chemical constituents will be set at values that recognize their cumulative effects and which will provide river water quality consistent with the mandatory requirements of the 1962 Public Health Service Drinking Water Standards.

7. The dissolved oxygen content and pH value of the waters of the Colorado River System must be maintained at levels necessary to support the natural and developed fisheries.

END OF PETITION 1999-01